Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	IB Docket No. 02-324
International Settlements Policy Reform	)	
International Settlement Rates	)	IB Docket No. 96-261
	)	

REPLY COMMENTS OF T-MOBILE USA, INC.

T-Mobile USA, Inc. ("T-Mobile")[1] hereby replies to comments submitted in response to the Federal Communications Commission's ("FCC" or "Commission") October 11, 2002 Notice of Proposed Rulemaking seeking comment on possible reform of its International Settlements Policy ("ISP"), International Simple Resale ("ISR") and benchmarks policies.[2] T-Mobile focuses specifically on the Commission's inquiry into charges U.S. consumers may be incurring for calls made to foreign mobile telephones.[3]

[1] T-Mobile (formerly known as VoiceStream Wireless Corporation), combined with Powertel, Inc. ("Powertel"), is the sixth largest national wireless provider in the United States with licensees covering approximately 94 percent of the U.S. population and currently serving ten million customers. T-Mobile and Powertel are wholly-owned subsidiaries of Deutsche Telekom, AG and are part of its T-Mobile wireless division. Both T-Mobile and Powertel are, however, operated together and are referred to in these comments as "T-Mobile." Via its HotSpot service, T-Mobile also provides Wi-Fi (802.11b) wireless broadband Internet access in more than 2,000 convenient public locations such as Starbucks coffeehouses, airports, and airline clubs, making it the largest carrier-owned Wi-Fi network in the world. All comments filed on January 14, 2003, in IB Docket Nos. 02-324 and 96-261 will hereinafter be short cited.

[2] *International Settlements Policy Reform International Settlement Rates*, 17 FCC Rcd 19954 (2002) ("*ISP Notice*"). The deadline for filing reply comments was February 18, 2003. The Commission, however, was closed on that date due to severe weather conditions in the Washington, D.C. metropolitan area. Accordingly, T-Mobile is filing these reply comments on February 19, 2003, the Commission's next official business day. *See* Public Notice, "FCC Closed February 18, 2003" (rel. Feb. 19, 2003).

[3] The Commission in 2001 approved a Receiving Party Pays ("RPP") payment regime in the U.S. that determines how wireless telephone calls are charged, after finding that the regime generally benefits U.S.

Although the Commission is limited jurisdictionally in its ability to affect international wireless termination rates, T-Mobile shares its concern that U.S. consumers know when they incur additional charges for certain international calls terminating on wireless networks. To address this issue, U.S. wireline and wireless carriers, the Commission, and consumer groups are taking steps to educate customers about such charges. For example, T-Mobile has adopted an easy to understand international pricing plan and has made efforts to educate customers about that plan. The Commission also recently issued a customer alert to notify consumers about foreign mobile termination rates.

T-Mobile generally supports Verizon's and other parties' view that the Commission should provide both the market and foreign regulators the opportunity to address the issue of foreign mobile termination rates before considering taking any action.[4] T-Mobile urges the Commission to allow the efforts of foreign regulators and customer education initiatives implemented by the Commission and industry members time to work, and in the interim to continue its longstanding practice of allowing the wireless industry to manage its customer payment policies.[5] No persuasive evidence has been furnished to demonstrate that intervention by the Commission is required at this time.

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consumers. Some other countries, however, use a Calling Party Pays ("CPP") regime. U.S. consumers accordingly may incur additional charges when calling many international mobile telephones that are subject to a CPP framework because, unlike in the United States, the calling, not the called, party is charged for the incoming call.

[4] *See* Verizon Comments at 8-10; *see also* Cable & Wireless Comments at 15-17; PCCW Limited Comments at 7.

[5] Multiple commenters in this proceeding seem to view the Commission's investigation into foreign mobile termination charges as a refutation of CPP payment regimes. *See, e.g.*, ANIEL Comments at 4; Telecom Italia Comments at 7; Telefonica SA Comments at 7-8. The Government of Japan also suggests that the Commission reexamine the use of an RPP regime in the United States. *See* Gov't of Japan Comments at 2. The Commission should consider clarifying that it does not oppose CPP regimes, but rather seeks only to address certain consequences of different international customer payment regimes.

I. The U.S. Telecommunications Industry Is Educating Consumers About International Mobile Termination Rates.

T-Mobile has undertaken steps to minimize customer confusion regarding foreign mobile termination charges, and as a result, receives very few complaints about its international calling rates. T-Mobile charges international toll service customers one flat per minute rate for calls made to international countries, regardless of whether that call is terminated on a landline or wireless telephone. For example, a call from the United States to France or another western European country is $0.29 per minute – this is the full rate paid by T-Mobile customers.[6] T-Mobile also has included information in customers' bills and on its web site regarding its WorldClass flat rate international pricing plan and explained that customers under the plan pay one consistent rate when calling abroad, with no hidden toll charges.[7]

T-Mobile shares the concerns of the Commission and other commenters that U.S. consumers be fully informed of charges they may incur when calling foreign mobile telephones. Recent efforts of U.S. carriers, the Commission, and consumer protection groups are helping to make customers more aware of charges that may be imposed for calls made to foreign mobile telephones. Carriers, on their own initiative, have already begun to educate customers about these charges, for example relying upon bill inserts, informational postcards, and the listing of rate information on company web sites.[8] Some carriers also provide lists of international number

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[6] *See* T-Mobile, International services: Calling from the USA, *available at* http://www.t-mobile.com/international/ longdistance.asp. For comparison, under T-Mobile's WorldClass Service plan, domestic calls are $0.20 per minute.

[7] *See, e.g.,* T-Mobile, International services: Compare International Solutions, *available at* http://http://www.t-mobile.com/international/compare.asp.

[8] *ISP Notice*, 17 FCC Rcd at 19981, ¶ 51. Looking at some of the larger U.S. long distance carriers, Sprint notes on its web site, www.sprint.com, that surcharges may apply to international calls, including "surcharges on residential calls made to foreign mobile phones," and AT&T provides a similar disclaimer on its web site, www.att.com.

prefixes that are associated with foreign mobile telephone numbers so that customers can determine prior to calling whether they are contacting a landline or mobile number and thus whether they will incur additional charges.[9] In addition, the recent Commission consumer alert is educating U.S. consumers about foreign mobile termination rates.[10]

The record reflects substantial evidence that market forces are addressing any issues that may exist with international wireless termination rates, and the Commission should allow these forces to continue to work. There is no evidence that the Commission needs to intervene at this juncture on this issue. If subscribers are dissatisfied by a carrier's failure to address or to notify them about international wireless termination charges, the subscriber can look to another more responsive carrier for service. U.S. carriers also must offer reasonable rates and charges or risk losing revenue and customers to competitors. Furthermore, carriers are best suited to determine how best to inform customers about rates generally and international rates specifically.[11] Accordingly, all U.S. long distance and wireless carriers have strong incentives to respond to customers' concerns regarding international charges. In addition, U.S. facilities-based wireline carriers also have incentives to negotiate with foreign carriers to obtain low termination rates, including termination rates for mobile calls.[12]

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[9] For example, AT&T provides on its web site a table that identifies numbers associated with foreign mobile telephones.

[10] CONSUMER & GOV'T AFFAIRS BUR., FCC, CONSUMER ALERT: SURCHARGES FOR INTERNATIONAL CALLS TO MOBILE PHONES (Sept. 23, 2002), *available at* http://www.fcc.gov/cgb/consumerfacts/surcharge.html.

[11] For example, AHCIET suggests that U.S. customers be informed of possible foreign mobile termination charges through an automated message that is placed before each international call. AHCIET Comments at 12. Carriers are in the best position to determine whether this technique is technically and economically feasible, and whether it would create additional customer confusion.

[12] WorldCom, Inc. alleges in its comments that U.S. consumers are being harmed by U.S. carriers that are affiliated with foreign mobile operators because such foreign mobile carriers are subsidizing their U.S. affiliates, who can then obtain a competitive advantage over other U.S. providers. WorldCom Comments

Adopting rules requiring carriers to standardize their customer education efforts risks *creating*, rather than abating, customer confusion about foreign mobile termination charges. International calling plans vary by carrier, and some providers (such as T-Mobile) employ consistent flat rate pricing, which consumers have found easy to understand. Customers under these varying international calling plans may find it more confusing if they were to receive formulaic warnings and information about foreign mobile termination rates.

T-Mobile supports Verizon's suggestion that the Commission increase its consumer education efforts by posting on its web site a list of international telephone prefixes that are associated with foreign mobile telephone numbers so that consumers may identify which calls may be subject to termination surcharges.[13] Consumers generally look to two sources for information about their telephone services – their service providers and government officials. Posting additional information on the Commission's web site would help educate customers about foreign mobile termination rates.

Less than two years ago the Commission determined that the marketplace should govern the payment regime for mobile services in the United States.[14] There is insufficient evidence to recommend that the Commission veer from that course now.

II. Foreign Regulatory Bodies Are Addressing Mobile Termination Rates.

As many commenters note, foreign regulatory bodies have been addressing, and will continue to address, foreign mobile termination rates. Foreign regulators have a strong incentive

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at 23. WorldCom, however, fails to offer any evidence or support for this wild accusation. The Commission should therefore give no weight to this allegation.

[13] *See* Verizon Comments at 10.

[14] *See Calling Party Pays Service Offering In the Commercial Mobile Radio Services*, 16 FCC Rcd 8297, 8304-05 (2001).

to investigate and address mobile termination charges because their constituents also must pay termination fees when calling mobile telephones, and the record shows that many regulators have taken action.[15] For example, just a month ago the United Kingdom's Office of Telecommunications ("Oftel") and Competition Commission recently ordered wireless carriers providing service in the United Kingdom to reduce mobile termination rates.[16]

Furthermore, the Commission is limited jurisdictionally as to what it can do to address the rates charged by foreign carriers in foreign countries, because it does not have direct authority over those carriers. Accordingly, T-Mobile agrees with Verizon that foreign regulators are better positioned than the Commission to address mobile termination charges.[17]

Accordingly, the Commission should allow its own and the industry's customer education efforts the opportunity to work and should provide foreign regulators adequate time to

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[15] *See* AHCIET Comments at 9 (noting that the national regulatory bodies in most Latin American countries are supervising the mobile telephony market, including mobile termination rates); Cable & Wireless Comments at 15-17 (describing the regulatory efforts of the United Kingdom and Australia, which will set a precedent in other international jurisdictions); PCCW Limited Comments at 7-8; Sprint Comments at 17-19 (describing the actions of the United Kingdom and Dutch regulators regarding mobile termination rates); Telecom Italia Comments at 8-9 (noting that the regulators in United Kingdom, Italy and France have taken measures regarding mobile termination rates); Telefonica SA Comments at 8-9; Verizon Comments at 9-10 (stating that regulators in Austria, Belgium, France, Norway, Sweden and Portugal have taken action on mobile termination rates and wireless carriers in Greece, Ireland and Germany have voluntarily addressed termination rates in response to regulatory pressure); Vodafone Comments at 6-11, 20-23 (outlining in matrix form the actions taken by foreign regulators regarding mobile termination rates).

[16] *See* David Edmonds, *Director General's Statement on the Competition Commission's Report on Mobile Termination Charges* (Jan. 22, 2003), *available at* Oftel website, http://www.oftel.gov.uk/publications/mobile/ 2003/stmt0103.htm ("Oftel Statement"). The main conclusions of the Competition Commission are available on Oftel's website. Competition Commission, *Report on the Charges Made by Mobile Operators for Terminating Calls* (Jan. 22, 2003), *available at* http://www.oftel.gov.uk/publications/mobile/2003/ctm_index_0103.htm. This decision does not conclude the matter, however, and Oftel has further announced that it will continue to monitor the wireless termination market. *See* Oftel Statement.

[17] Verizon Comments at 9-10; *see also* PCCW Limited Comments at 7.

address foreign mobile termination rates and time for their directives and initiatives to take effect.

CONCLUSION

The Commission should abstain from adopting regulations regarding charges that are being assessed on some U.S. consumers for calls made to foreign mobile telephones. Furthermore, the Commission should provide carriers an opportunity to educate customers and to negotiate with foreign carriers to address this issue. Finally, the Commission should allow foreign regulators the opportunity to implement appropriate steps to address mobile termination rates.

Respectfully submitted,

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